



Senate

General Assembly

File No. 161

February Session, 2012

Substitute Senate Bill No. 80

Senate, March 29, 2012

The Committee on Commerce reported through SEN. LEBEAU of the 3rd Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT EXPANDING TEST BED AUTHORITY AT THE CONSTITUENT UNITS OF THE STATE SYSTEM OF HIGHER EDUCATION.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 10a-151b of the 2012 supplement to the general
2 statutes is repealed and the following is substituted in lieu thereof
3 (*Effective July 1, 2012*):

4 (a) Notwithstanding the provisions of chapter 58, and sections 4-98,
5 4a-4, 4a-5, 4a-6, 4d-2, and 4d-5 to the contrary, a chief executive officer
6 may purchase equipment, supplies and contractual services, execute
7 personal service agreements, as defined in section 4-212, or lease
8 personal property compatible, where relevant, with standards for
9 computer architecture established by the Department of
10 Administrative Services, without the approval of the Comptroller, the
11 Secretary of the Office of Policy and Management or the Commissioner
12 of Administrative Services, provided the chief executive officer
13 consults with the commissioner and such purchases are made in
14 accordance with this section and in accordance with policies which are

15 (1) adopted by the board of trustees of the constituent unit after
16 reasonable opportunity for interested persons to present their views,
17 and (2) subject to section 4-175. For purposes of this section, "chief
18 executive officer" means the chief executive officer of a constituent unit
19 of the state system of higher education or the chief executive officer of
20 an institution within the jurisdiction of such a constituent unit. The
21 provisions of sections 4-212 to 4-219, inclusive, and section 9 of public
22 act 93-336 shall not apply to personal service agreements executed
23 pursuant to this section.

24 (b) Purchases made pursuant to this section shall be based, when
25 possible, on competitive bids or competitive negotiation. Such chief
26 executive officer shall solicit competitive bids or proposals by sending
27 notice to prospective suppliers and by posting notice on a public
28 bulletin board in his office. Such notice shall contain a notice of state
29 contract requirements pursuant to section 4a-60. Each bid or proposal
30 shall be kept sealed until opened publicly at the time stated in the
31 notice soliciting such bid or proposal. Sealed bids or proposals shall
32 include bids or proposals sealed within an envelope or maintained
33 within a safe and secure electronic environment until such time as they
34 are publicly opened. If the amount of the expenditure is estimated to
35 exceed fifty thousand dollars, competitive bids or proposals shall be
36 solicited by public notice inserted at least once in two or more
37 publications, at least one of which shall be a major daily newspaper
38 published in the state, and shall be posted on the Internet, and at least
39 five calendar days before the final date of submitting bids or
40 proposals. All purchases fifty thousand dollars or less in amount shall
41 be made in the open market, but shall, when possible, be based on at
42 least three competitive quotations. If desired by the constituent unit,
43 competitive quotations may include quotations submitted to the
44 constituent unit within a safe and secure electronic environment. The
45 constituent unit shall not refuse to consider a bid, proposal or
46 quotation because it is not submitted electronically.

47 (c) Notwithstanding the provisions of subsection (b) of this section
48 to the contrary, competitive bidding or competitive negotiation is not

49 required in the case of (1) minor purchases of ten thousand dollars or
50 less in amount, [or in the case of] (2) purchases made pursuant to
51 subsection (k) of this section, or (3) emergency purchases. Whenever
52 an emergency exists by reason of extraordinary conditions or
53 contingencies that could not reasonably be foreseen and guarded
54 against, or because of unusual trade or market conditions, the chief
55 executive officer may, if it is for the best interest of the state, make
56 purchases without competitive bidding. A statement of all emergency
57 purchases made under the provisions of this subsection shall be set
58 forth in the annual report of the chief executive officer.

59 (d) Nothing in this section shall exempt a constituent unit or chief
60 executive officer from complying with the provisions of sections 4a-60
61 and 4a-61.

62 (e) No person, firm or corporation disqualified pursuant to section
63 4a-52a, or by the Commissioner of Administrative Services pursuant to
64 section 4a-63 from bidding on contracts with the Department of
65 Administrative Services may bid pursuant to this section.

66 (f) A chief executive officer who enters into a contract under this
67 section which fails to meet the requirements of this section shall be
68 personally liable for the costs of such contract and such contract shall
69 be void and of no effect. Any amount paid under such contract may be
70 recovered from such chief executive officer by the state in a civil action.

71 (g) Nothing in this section shall be construed to prevent a chief
72 executive officer from participating in a contract for the purchase of
73 equipment, supplies or services with the Department of
74 Administrative Services pursuant to chapter 58.

75 (h) Nothing in this section shall be construed to prevent a
76 constituent unit from entering into a corporate sponsorship agreement
77 which contains provisions for the barter of goods and services,
78 provided such agreement is entered into in accordance with policies
79 and procedures governing such agreements pursuant to subsection (a)
80 of this section.

81 (i) For the period from July 1, 2002, to June 30, 2006, inclusive, any
82 funds or revenues collected from ticket sales by the contractor hired by
83 Western Connecticut State University to operate and manage its
84 O'Neill Center, shall not be deemed to be state funds for the purposes
85 of sections 4-32 and 4-33 and may be deposited in the contractor's
86 account for a period of time not to exceed forty days, during which
87 time the contractor shall pay all expenses related to the event for which
88 the tickets were sold and make an accounting of the portion of the
89 funds to be remitted to the university, and then remit such funds to the
90 university pursuant to the terms of the contract. Upon receipt of such
91 funds, the university shall deposit such funds in accordance with the
92 provisions of sections 4-32 and 4-33.

93 (j) Notwithstanding the provisions of subsections (a) and (b) of this
94 section, a chief executive officer may not extend a contract with a value
95 of fifty thousand dollars or more per year to perform janitorial,
96 building maintenance, security or food and beverage services unless:
97 (1) Such contract is in effect on May 1, 2005; (2) such extension is for a
98 period of one year from the date such contract would otherwise expire;
99 and (3) any such extension includes any applicable increase in the
100 standard wage and the payroll burden to administer the standard
101 wage, as established by the Labor Department.

102 (k) A chief executive officer of a constituent unit may purchase, or
103 make expenditures related to the development of, any technology,
104 product or process for the purpose of testing such technology, product
105 or process in the operation of the constituent unit on a trial basis, if (1)
106 such technology, product or process (A) is part of or related to a
107 research program at the constituent unit, (B) has the potential, as
108 determined by the chief executive officer, to provide economic benefit
109 to the state, (C) will not adversely affect the safety of any individual,
110 and (D) has potential for commercialization, and (2) the chief executive
111 officer has received a recommendation to test such technology,
112 product or process from a constituent unit committee whose
113 membership includes the chief purchasing official, the chief academic
114 officer and the chief economic development officer for the constituent

115 unit, or their designees.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>July 1, 2012</i>	10a-151b
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Statement of Legislative Commissioners:

In section 1(k), the two sentences were merged for clarity and conciseness and internal designators were changed accordingly.

CE *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note**State Impact:**

Agency Affected	Fund-Effect	FY 13 \$	FY 14 \$
Constituent Units of Higher Education	Various Funds - Potential Cost	See Below	See Below

Municipal Impact: None

Explanation

The bill results in a potential cost to the constituent units of higher education as technologies, products or processes purchased without competitive bidding are generally more expensive than those competitively bid. The exact cost would be dependent upon the cost of the products or processes being purchased and how often such a purchasing process is employed.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to the number items purchased without competitive bidding.

OLR Bill Analysis**sSB 80*****AN ACT EXPANDING TEST BED AUTHORITY AT THE
CONSTITUENT UNITS OF THE STATE SYSTEM OF HIGHER
EDUCATION*****SUMMARY:**

This bill specifies conditions under which a chief executive officer (CEO) of a constituent unit of higher education may purchase a technology, product, or process or spend money related to its development without competitive bidding or negotiation. The CEO may make the expenditure if the technology, product, or process:

1. will be tested in his or her unit as part of a trial;
2. is part of or related to one of the unit's research programs;
3. has potential commercial applications and benefit to the state's economy;
4. has no adverse affect on individual safety; and
5. has been recommended by a committee of the unit that includes its purchasing official, chief academic officer, and chief economic development officer or their designees.

By law, constituent unit CEOs may use competitive bidding or negotiation for specific procurement actions without the comptroller's, Office of Policy and Management secretary's, or administrative services commissioner's approval if they (1) do so under policies adopted by their respective unit's trustees and (2) consult with the administrative services commissioner.

EFFECTIVE DATE: July 1, 2012

COMMITTEE ACTION

Commerce Committee

Joint Favorable Substitute

Yea 16 Nay 1 (03/15/2012)